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10
11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 UNITED STATES OF AMERICA,

14 No. 2:06-cr-146-RLH-RJJ

15 Plaintiff,

16 vs.

17 KELA ORLANDO SMITH,

18 Defendant.

19 **Kela Smith's Unopposed Motion**
Seeking Early Termination of
Supervised Release

20 Defendant Kela Smith has spent more than three and a half years on supervised
21 release. During that time, he worked while earning an associate's degree and generally
22 displayed exemplary conduct. Now, he seeks early termination of supervised release.

23 Neither the government, nor Smith's supervising officer, opposes this request.
24 Accordingly, in the interests of justice, the Court should terminate Smith's supervised release
25 and discharge him.

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Background

On December 7, 2007, the Court sentenced Defendant Kela Smith to, inter alia, 84 months in prison, followed by five years of supervised release. See judgment entered December 11, 2007 (Dkt. 29). Smith's supervised release commenced February 17, 2012. See Dkt. 30. For the following three and a half years, Smith's conduct was exemplary, save for one incident (a DUI a year and a half ago). See *id.* Smith immediately reported the DUI to his supervising officer and stipulated to modify his release conditions to include random drug testing (including Breathalyzer tests), and re-enrollment in substance abuse counseling. See *id.* Since then, there have not been any issues.

In the meantime, Smith has maintained employment while simultaneously obtaining an associate's degree. See Declaration of Kela Smith (**Ex. 1**); College of Southern Nevada Associates Degree (**Ex. 2**). Smith and his long-time girlfriend of twenty years have five children ranging in ages from three to 17. See *id.* She works in the telemetry department at North Vista Hospital. See *id.* Currently, Smith is enrolling in a bachelor's program, and will balance his studies with an internship at a local privately owned auto mechanics business near Lamb and Lake Meade. See *id.*

Now, Smith seeks early termination of his supervised release.

Terminating Smith's Supervised Release

Under 18 USC § 3583(e)(1), at any time after the expiration of one year of supervised release, and after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)--(1), the Court may terminate a term of supervised release and discharge the defendant released pursuant to the provisions of the Federal Rules

of Criminal Procedure relating to the modification of probation if the Court is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice. See 18 U.S.C.A. § 3583(e)(1).

Almost four years have elapsed since Smith was placed on supervised release, in February, 2012 and, as discussed, during that time Smith has obtained both vocational and educational training and, with one small exception, demonstrated exemplary conduct. Plainly stated, Smith has been rehabilitated and is now a productive husband, father, and member of the community.

Given Smith's progress, further supervision will yield few, if any, benefits, and the United States Probation Office's resources are much better utilized supervising individuals with educational or vocational deficits, frayed social ties, or greater recidivism indicators.

Smith's supervising officer (Officer Mauga) does not oppose Smith's request for early termination as long as Smith maintains his sobriety and either continues to pursue his education or obtains full-time employment. Likewise, the government (AUSA Cowhig) does not oppose Smith's early termination request either. Accordingly, early termination of Smith's supervised release is appropriate.

To the extent it will facilitate granting this request, Smith waives his right to a hearing.¹

¹ Federal Rule of Criminal Procedure 32.1(c)(1) and (2) require a hearing before modifying the conditions of supervised release unless: (a) the person waives the hearing; or (b) the relief sought is favorable to the person and does not extend the term of probation or of supervised release; and (c) an attorney for the government has received notice of the relief sought, has had a reasonable opportunity to object, and has not done so. See Fed. R. Crim. P. 32.1(c)(2)(A)-(C).

1
Conclusion

2 In conclusion, terminating Smith's supervised release early is timely and appropriate.
3 Neither Smith's supervising officer, nor the government objects to this request, and in light
4 of Smith's progress there is no basis for continuing to devote further limited resources to
5 supervising him. Thus, Smith asks the Court terminate his supervised release immediately.
6

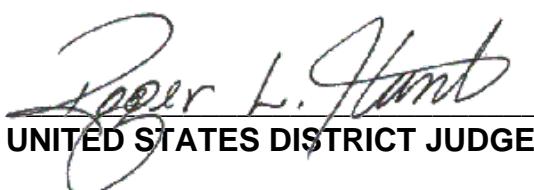
7 Date: January 5, 2016
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9 Respectfully submitted,
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12

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23 **IT IS SO ORDERED.**
24

25 
26 **UNITED STATES DISTRICT JUDGE**
27

28 **DATED: January 6, 2016**

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Certificate of Service

I hereby certify that I am an employee of LAMBROSE | BROWN, am of competent age and discretion to serve papers, and that on the date indicated below the foregoing **Kela Smith's Unopposed Motion Seeking Early Termination of Supervised Release** was filed with the Clerk of Court using the CM/ECF system, which will cause electronic service of this document to those registered as an electronic case filing user with the Clerk of Court at the time of electronic filing.

Date: January 5, 2016

By: *s/ Deidra Hufnagle*
An employee of
LAMBROSE | BROWN

With a courtesy copy to:

Daniel Cowhig, AUSA (via email only:
Daniel.Cowhig@usdoj.gov);

Aaron Mauga, United States Parole and Probation (via email only:
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